

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

200 W. Washington, Suite 301
Indianapolis, IN 46204
(317) 233-0696
<http://www.in.gov/legislative>

FISCAL IMPACT STATEMENT

LS 6133

BILL NUMBER: SB 74

NOTE PREPARED: Feb 8, 2003

BILL AMENDED: Feb 4, 2003

SUBJECT: Deceptive Commercial Electronic Mail.

FIRST AUTHOR: Sen. Ford

FIRST SPONSOR:

BILL STATUS: CR Adopted - 1st House

**FUNDS AFFECTED: X GENERAL
DEDICATED
FEDERAL**

IMPACT: State & Local

Summary of Legislation: This bill provides that a person may not initiate or assist in the transmission of a commercial electronic mail message from a computer located in Indiana or to the electronic mail address of an Indiana resident if the message uses a third party's Internet domain name without permission of the third party, otherwise misrepresents or obscures any information in identifying the point of origin or the transmission path of the electronic mail, or contains false or misleading information in the subject line. The bill authorizes an interactive computer service to block the receipt or transmission through its service of such electronic mail. The bill provides that a violation is a deceptive act that is actionable under the deceptive consumer sales statute.

Effective Date: July 1, 2003.

Explanation of State Expenditures: (Revised) *Attorney General:* Depending on the extent to which the Attorney General's (AG) Office investigates and brings actions against persons responsible for sending deceptive commercial e-mail, the bill will increase the Office's administrative costs. The bill also allows interactive computer services and e-mail recipients to take action against these persons. In addition, to the extent that the bill allows an interactive computer service to take action to prohibit these transmissions, the potential for any Attorney General expense would be reduced. However, since the bill provides that a convicted sender may be ordered to pay the Attorney General's costs associated with investigating and prosecuting the convicted sender's case, the impact of the bill on the Office may be partially mitigated (see *Explanation of State Revenues*, below).

Explanation of State Revenues: (Revised) A person that sends deceptive commercial e-mail commits a deceptive act that is actionable by the Attorney General, a recipient of a violating email, or an interactive

computer service. If convicted, the court may order the sender to pay to the state the reasonable costs of the Attorney General's investigation and prosecution related to the action. A court may also order an injunction, which if violated, results in the assessment of a civil penalty of up to \$15,000 per violation. If a court finds that a person committed a deceptive act knowingly, the Attorney General may recover a civil penalty of a fine up to \$500 per violation on behalf of the state.

Court Fee Revenue: If additional civil actions occur, revenue to the state General Fund may increase if court fees are collected. A civil filing fee of \$100 would be assessed when a civil case is filed. 70% of the filing fee would be deposited in the state General Fund if the case is filed in a court of record or 55% if the case is filed in a city or town court.

Explanation of Local Expenditures:

Explanation of Local Revenues: *Court Fee Revenue:* If additional civil actions occur, local governments would receive revenue from the following sources. The county general fund would receive 27% of the \$100 filing fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. If the case is filed in a city or town court, 20% of the court fee would be deposited in the county general fund and 25% would be deposited in the city or town general fund.

State Agencies Affected: Attorney General's Office.

Local Agencies Affected: Trial courts, city and town courts.

Information Sources:

Fiscal Analyst: John Parkey, 317-232-9854